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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ROAR SPIRITS, LLC, A DELAWARE
LIMITED LIABILITY COMPANY, F/K/A
EL BANDIDO YANKEE, LLC

Plaintiff,

vs.

REBEL WINE CO. LLC, a California
limited liability company,

Defendant.

Case No. 4:23-cv-04809-HSG

**STIPULATION TO SUBSTITUTE
DEFENDANT AND ORDER (as
modified)**

Pursuant to Civil Local Rules 7-1 and 7-12, Plaintiff Roar Spirits, LLC f/k/a El Bandido Yankee, LLC (“Roar”) and Defendant Rebel Wine Co., LLC (“Rebel”) (collectively, “the Parties), by and through their respective counsel, hereby request that the Court substitute Sutter Home Winery, Inc. (“Sutter Home”) as the Defendant in the above-captioned action.

The parties stipulate as follows:

WHEREAS, Rebel represents that Sutter Home has always been a member of the Rebel limited liability company and earlier this year acquired 100% ownership of the Rebel limited liability company and is now winding up Rebel as a company;

WHEREAS, on September 15, 2024, Rebel, the party currently named as the Defendant in the above-captioned action, executed an assignment and transfer to Sutter Home all right, title and interest in and to the BANDIT mark and U.S. Registration No. 3,974,340 therefor, together with the goodwill of the business and assets symbolized by the BANDIT mark (the “BANDIT Assignment”);

WHEREAS, on September 18, 2024, a copy of the BANDIT Assignment was recorded in the United States Patent and Trademark Office at Reel/Frame 8582/0231 of the assignment records;

WHEREAS, the Notice of Recordation of Assignment is attached as Exhibit 1;

WHEREAS, “[w]hen a mark that is the subject of a Federal application or registration has been assigned, together with the application or registration, in accordance with Trademark Act § 10, 15 U.S.C. § 1060, any action with respect to the application or registration that may or must be taken by the applicant or registrant may be taken by the assignee (acting itself, or through its attorney or other authorized representative), provided that the assignment has been recorded with the USPTO or that proof of the assignment has been submitted in the Board proceeding record.” See Trademark Trial and Appeal Board Manual of Procedure § 512.01;

WHEREAS, under Federal Rule of Civil Procedure 25(c), “[i]f an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party”;

WHEREAS, counsel for Rebel also acts as counsel for Sutter Home and Sutter Home consents to substitution as the Defendant in the above-captioned action;

WHEREAS, Roar does not stipulate to the validity of the BANDIT Assignment and reserves its rights to challenge the validity of the BANDIT Assignment; and

WHEREAS, the Parties both agree to the substitution of Sutter Home as the Defendant in the above-captioned action.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED between the Parties, by and through their respective counsel of record, subject to the approval of the Court, that:

Sutter Home be substituted in place of Rebel as the Defendant in the above-captioned action.

Respectfully Submitted,

Dated: October 14, 2024

DICKENSON, PEATMAN & FOGARTY

/s/ J. Scott Gerien

J. Scott Gerien

Attorneys for Defendant
REBEL WINE CO., LLC
Attorneys for Substituted Defendant,
SUTTER HOME WINERY, INC.

Dated: October 14, 2024

WOLF, RIFKIN, SHAPIRO, SCHULMAN &
RABKIN, LLP

/s/ Paulo A. de Almeida


Paulo A. de Almeida

Attorneys for Plaintiff
ROAR SPIRITS, LLC f/k/a EL BANDIDO
YANKEE, LLC

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The Clerk is directed to 1) terminate Rebel Wine Co. LLC as a defendant; 2) add Sutter Home as a defendant; and 3) update the case title so it reflects Roar Spirits LLC v. Sutter Home.

Dated: 10/15/2024


The Honorable Haywood S. Gilliam, Jr.
United States District Judge

dp&f
LAW